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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,455	02/07/2001	Koenraad Reybrouck	1316N001654	3409

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EXAMINER

PEZZLO, BENJAMIN A

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 08/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/778,455	RREYBROUCK ET AL.
Examiner	Art Unit	
Benjamin A Pezzlo	3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2 and 6-8 is/are pending in the application.
 - 4a) Of the above claim(s) 8 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-2 and 6-7 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 April 2002 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

- 4) Interview Summary (PTO-413) Paper No(s). _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, since claim 2 (see page 9 of the application, lines 3 and 4) requires that the valve body be attached to the pressure tube, it follows that claim 1 does not require attachment, and thus, the valve body must be shown not attached to the pressure tube or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2 and 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Reuschenbach et al. (US 4307874 provided in the IDS, Paper No. 2).

Reuschenbach et al. disclose a damper including a pressure tube 26 having an inner wall which forms a working chamber 72, a piston 28 disposed within the working chamber, the piston dividing a first portion of the working chamber into an upper working chamber 72 and a lower working chamber 74, a first flow path 52 or 50 or 190 extending through the piston to provide

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communication between the upper working chamber and the lower working chamber, a valve body 60 disposed within the working chamber to define a fluid chamber ⁷⁶31 located in a second portion of the working chamber, and a second flow path 70 extending through the valve body to provide communication between the lower working chamber and the fluid chamber⁷⁶the second fluid flow path being an open flow path.

Re claim 2, see Fig. 1.

Re claim 6, see valve 138 in Fig. 2

Re claim 7, see valve 194 in Fig. 2.

4. Claims 1-2 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Finhaus (US 1,566,190 provided in the IDS, Paper No. 2).

Finkhaus discloses a damper including a pressure tube a having an inner wall which forms a working chamber d, a piston f disposed within the working chamber, the piston dividing a first portion of the working chamber into an upper working chamber (right side of piston) and a lower working chamber (left side of piston), a first flow path g extending through the piston to provide communication between the upper working chamber and the lower working chamber, a valve body c disposed within the working chamber to define a fluid chamber (left side of valve body) located in a second portion of the working chamber, and a second flow path b extending through the valve body to provide communication between the lower working chamber and the fluid chamber⁷⁶the second fluid flow path being an open flow path.

Re claim 2, see Fig. 1.

Re claim 6, see valve g in Fig. 2

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-2 and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guzder et al. (US 4356898 provided in the IDS, Paper No. 2) in view of Leno (US 6161821).
Guzder et al. disclose a damper (see Fig. 1) including a pressure tube 28 having an inner wall which forms a working chamber, a piston 48 disposed within the working chamber, the piston dividing the working chamber into an upper working chamber and a lower working chamber, a first flow path 50 extending through the piston to provide communication between the upper working chamber and the lower working chamber, a valve body 26 disposed within the working chamber to define a fluid chamber 20 located in a second portion of the working chamber, and a second flow path 40 extending through the valve body to provide communication between the lower working chamber and the fluid chamber.

Guzder does not disclose the second fluid path being an open flow path. Leno discloses an open flow path 28 between the working chamber and the fluid chamber. It would have been obvious to one of ordinary skill in the art to which the invention pertains at the time the invention was made to have provided Guzder with an open flow path according to the teachings of Leno in order to provide connecting gaps between the gas and hydraulic spaces.

Re claim 2, see Fig. 1.

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Re claim 6, see valve 54.

Re claim 7, see valve 38.

7. Claims 1-2 and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Margolis et al. (US 4844428).

Margolis et al. disclose a damper including a pressure tube 26 having an inner wall which forms a working chamber 25, a piston 28 disposed within the working chamber, the piston dividing a first portion of the working chamber into an upper working chamber 29 and a lower working chamber 30, a first flow path 34 extending through the piston to provide communication between the upper working chamber and the lower working chamber, a valve body 41 disposed within the working chamber and a fluid chamber 31, and a second flow path 36 extending through the valve body to provide communication between the lower working chamber and the fluid chamber the second fluid flow path being an open flow path.

Margolis et al. do not disclose the fluid chamber located in a second portion of the working chamber. Nonetheless, it would have been obvious to one of ordinary skill in the art to which the invention pertains at the time the invention was made to have provided fluid chamber in a second portion of the working chamber in order to lower the cost of the device and/or to provide a shock absorber having a greater longitudinal dimension.

Re claim 2, see Fig. 1.

Re claim 6, see compression valve 33.

Re claim 7, see extension valve 35.

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Response to Arguments

8. Applicant's arguments with respect to claims 1-2 and 6-7 have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's request for rejoinder of claim 8 is denied because claim 1 has been rejected.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A Pezzlo whose telephone number is (703) 306-4617. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on (703) 308-3421. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 308-3519 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

BAP
August 13, 2002


JACK LAVINDER
SUPERVISORY PATENT EXAMINER
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